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THE STATUS OF CONTINGENCY PLANS FOR SUPERFUND PROGRAMS

HEARING

BEFORE THE

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS UNITED STATES SENATE

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THURSDAY, JANUARY 30, 1986

U.S. SENATE,
COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS,
Washington, DC.

The committee met, at 11:03 a.m., in room SD–406, Dirksen Senate Office Building, Hon. Robert T. Stafford (chairman of the committee) presiding.

Present: Senators Stafford, Chafee, Humphrey, Bentsen, Burdick, Moynihan, and Mitchell.

OPENING STATEMENT OF HON. ROBERT T. STAFFORD, U.S. SENATOR FROM THE STATE OF VERMONT

Senator STAFFORD. The committee will please come to order.

Our principal witness this morning, Mr. Lee Thomas, has been promised that we could conclude this hearing by 12:00 as he has other commitments, so we will get started right away.

Our witness will be Lee Thomas, the Administrator of EPA. I have been advised that Mr. Thomas does not have a prepared statement but will speak from notes and may have a few slides or graphs to show us.

Mr. Thomas has been invited here to tell us the current status of the Superfund programs and the prospect for the days ahead. I hope he will also be able to tell us some action we may take to avoid or mitigate damage that will surely result from the continued lack of funding.

I must say this is a day I feared might arrive. It is also a day I and this committee have sought to avoid. We anticipated that there might be delays and uncertainties and other difficulties associated with reauthorization and expansion of the Superfund law. For that reason, this committee began the reauthorization process in March 1984, 18 months before the taxing authority for the program was scheduled to expire. We wanted to allow plenty of time for passage of reauthorization legislation and to give all parties assurance of the continuity of the program.

Our committee recommended a bill to the full Senate in 1984. Unfortunately, the measure died without being considered.

So, when the 99th Congress convened in 1985, this committee immediately got to work on reauthorization of Superfund. Indeed, we held our first hearing even before the committee was formally organized, and we reported a reauthorization bill on March 1, 7 months before the tax was scheduled to expire.

Unfortunately, it was September before that bill was considered by the Senate and December before the House acted. On September 30, 1985, the tax supporting the program expired, cutting off the flow of new funds.

We joined in efforts to have a 5-year tax extension included in the reconciliation package. When it became obvious that even success in that effort might come too late, Senator Lautenberg and I sought to have the Congress enact a short-term extension of the Superfund tax as it had existed.

As we know, none of these efforts was successful. Although the Nation wants Superfund continued and expanded, although both the House and Senate have passed Superfund reauthorization bills by overwhelming majorities, we still have no bill. Indeed, we don't even have a committee of conference yet.

So, it is with sadness and disappointment that I say that today we confront a grim reality that this committee and its chairman have spent nearly 2 years trying to avoid. I remain hopeful that the Congress can complete the reauthorization process swiftly. I have discussed this matter with my colleagues in the House and Senate and suggested that we set a target date of March 7 to accomplish reauthorization.

We need to know this morning, Mr. Thomas, especially what the conditions are with respect to Superfund programs, the constraints under which we are operating, and the options available to us that may occur to you. The Nation also wants this information.

I am told that our committee staff was briefed last week and that what may be at stake here is not just the Superfund Program but all of the EPA programs. That includes air, water, pesticides, research and development, and others in addition to Superfund. I have also been told that EPA conducted a kind of press conference through telephone hookups with regional offices around the country yesterday regarding the condition of Superfund and the Agency.

Perhaps at this point, Mr. Thomas, as soon as others who have opening statements have made them, you will share your assessment of the current condition of the Superfund Program and the prospects for the future of Superfund and all of EPA with this committee.

The Chair would recognize the ranking minority member, Senator Bentsen, for an opening statement.

OPENING STATEMENT OF HON. LLOYD BENTSEN, U.S. SENATOR FROM THE STATE OF TEXAS

Senator BENTSEN. Thank you very much, Mr. Chairman.

I recognize that this hearing has been quickly scheduled to try to express the concern of these members that we should expeditiously reauthorize Superfund. I am very supportive of the chairman's concerns about it and the kind of commitment he has made in this particular important piece of legislation.

I want to say that I am personally committed to participating in both the revenue and the programmatic conferences. As soon as they get underway, and I strongly urge that they do, I am ready to serve whenever they can be named.

However, it is difficult to judge how long one of those conferences is going to take. When we get on the programmatic side, we have some difficult issues to resolve. They are resolvable, and we can accomplish that.

I think it is even more difficult on the revenue side. What we did here in the Senate was to pass, by a very large margin, a source of revenue for Superfund that would be constant; one that would not depend on the vagaries of one industry or another insofar as their business or decreasing revenues, and would look at toxic waste as a societal problem and that all industry contributes to toxic waste and that the burden be equally shared across the country.

I am frustrated that the administration, in that regard, has been an almost totally negative factor and has really not tried to assist in what I think would be developing a fair tax in that regard. Today, we need to know what is going to happen next.

I read your statement, Mr. Thomas, in the Washington Post saying that short-term funding would be necessary if a bill is not passed by April 1. If we get into that kind of situation, I think we have to get into a great deal of specificity as to just what you are talking about. The last thing I want to see happen is the RIF'ing of employees and the destruction of the infrastructure there. I don't want to have to see that assembled again, that would be a terrible loss to the environmental concerns of this country.

I want to see what you are talking about insofar as how much money is needed to keep contracts and projects underway that are taking place at the present time. So, that has to be very narrowly defined.

In the meantime, we have a couple of months. The chairman is shooting at a date of March 7. We have some time to get what has to be done in the way of these conferences underway and try to resolve it, but we need the help of the administration. I think we particularly need that on the revenue side. A number of members on this committee share dual jurisdiction in that regard, and I would urge very strongly that the administration assist in accomplishing that.

Thank you, Mr. Chairman.

I would like to introduce a statement for Senator Baucus who is stranded by inclement weather in Spokane.

Senator STAFFORD. Without objection, that will be made a part of the record.

[Senator Baucus' statement follows:]

OPENING STATEMENT OF HON. MAX BAUCUS, U.S. SENATOR FROM THE STATE OF MONTANA

Senator BAUCUS. Mr. Chairman, I commend you for calling this hearing. It is important that Congress understand the seriousness of the problems facing the Superfund program.

This committee understood the importance of an early reauthorization of the Superfund program.

Under your leadership, Mr. Chairman, this Committee had the foresight to begin the reauthorization of Superfund a year before the program expired.

The 98th Congress adjourned without completing action on this important program.

It was unfortunate that Congress did not then take the bull by the horns to pass this legislation. But the administration opposed quick action, and the legislation died.

When the 99th Congress convened, this Committee immediately turned its attention to Superfund. Each of us recognized the seriousness of allowing Superfund to lapse.

That seriousness is now staring us in the face. The Superfund program expired September 30, 1985, and it is now almost February, four months later.

The Superfund program is in serious trouble. Congress must not allow the program to be dismantled. The American public deserves more. The support for Superfund is overwhelming.

In my state, people living in the Milltown Creek area outside of Anaconda are awaiting a decision as to whether or not the health risk posed by arsenic is so great that they should be relocated. This decision is expected later this spring.

What is the decision comes back that they should be moved, but the program has expired! What happens then?

Government cannot shirk its responsibility. An answer that, yes, they should be relocated, but no, we can't do it because we have no money and the program has expired, is unacceptable.

When the Superfund expired last September, EPA took the correct step of "pulling in" and conserving its monies. I want to commend Lee Thomas for taking this step.

But EPA and this administration are not free of guilt for the dilemma facing us today. There has been a conscious decision to let Congress fight out the question of how the Superfund program should be funded. This administration and EPA can no longer sit on the sidelines. They must become active participants.

Hopefully, the things that we will learn today will provide sufficient cause for EPA to spring into action.

Superfund is deadlocked over the issue—who should pay for the program?

When the Superfund program was begun in 1980, the concept that those who cause the pollution should pay for it was firmly grounded in the program. It was the basis for the feedstock tax.

This principle makes sense today, but we now know that the problem is caused by a much larger group than a small group of chemical manufacturers. It is for this reason that the Senate approved a broad-based tax.

One of the most emotion-filled hearings over the Superfund debate that this Committee has conducted was when mothers whose families were exposed to toxic contaminants in Woburn, Massachusetts, testified.

Woburn is exactly the reason why a broad-based tax is warranted.

The toxic waste problem in Woburn traces its roots to before the Civil War. Wastes left over from the manufacture of shoes for Union soldiers are part of the problem. Clearly, no single segment of industry can be blamed for a problem that began over 125 years ago.

But it is exactly this problem that is facing us. The House has chosen to ignore the broad-based cause of the hazardous waste problem facing us today.

Perhaps the Senate has gone too far in including everyone, but the problem is clearly caused by a much larger group than the narrow segment now taxed as feedstocks.

I have begun to seriously look at this question. I know that this Committee is as committed to the Superfund program as I am. We, and I include EPA, each need to put our total effort towards resolving this impasse.

I plan to look carefully at who has been identified as the responsible parties to learn who should bear the brunt of the tax burden.

We must not allow the Superfund program to be dismantled. We must be willing to look at new taxing alternatives to break the serious impasse facing us.

Senator STAFFORD. The Chair will go to other members for opening statements, but please bear in mind, my colleagues, that we only have 47 minutes for the Administrator to be here with us and that the shorter our statements, the more time he will have to speak and answer questions. Senator Chafee.

OPENING STATEMENT OF HON. JOHN H. CHAFEE, U.S. SENATOR FROM THE STATE OF RHODE ISLAND

Senator CHAFEE. Well, with that subtle suggestion, Mr. Chairman, I will just briefly say that, first, I want to commend you for holding this hearing and, second, say that we all know that the Su-

perfund tax expired September 30, and under your able leadership, Mr. Chairman, we got a bill out of this committee and out of the Finance Committee where many of us also sit. Our proposal for a 5-year Superfund Program was almost five times larger than the 1980 version.

Unfortunately, the action in the House has not been commensurate with the action in the Senate. The House waited until December 10 to approve a bill extending Superfund for 5 years, and even though once they passed it 7 weeks ago, they haven't yet appointed their conferees. And, for parliamentary reasons, Mr. Chairman, we can't appoint our conferees until they do. Obviously, we can't go to a conference without conferees.

So, we are dead in the water getting nowhere. I would hope that the House would do something so that we could come to the table. We know there are major differences between the bills, especially in the finance portion of it. It is not going to be a quick conference, we tried to do this through reconciliation, but that did not succeed.

I certainly don't want to see this bill become a political football, and I certainly don't want to see us play a game of brinksmanship, but that is apparently what seems to be taking place. If there has to be a short-term extension, I would vote for it, although a short-term extension may just defer us from making the tough decisions we have to make by coming to a conference. That is the problem there.

So, Mr. Chairman, we look forward to hearing from Mr. Thomas as to what we might do. This is a very, important program for the Nation, for my State, for all our States, and for the country. We just have to get on with it as quickly as possible. I hope this hearing will help us focus on that, Mr. Chairman.

Thank you.

Senator STAFFORD. Thank you very much, Senator Chafee.

I think, Senator Lautenberg, you were the next member to be here.

OPENING STATEMENT OF HON. FRANK R. LAUTENBERG, U.S. SENATOR FROM THE STATE OF NEW JERSEY

Senator LAUTENBERG. Thank you, Mr. Chairman.

I, too, want to thank you for moving this hearing so quickly. The announcement by EPA that it intends to shutdown the Superfund Program and start to furlough 1,500 employees is truly unacceptable, Lee. I think you know that, and we can't permit it to happen.

I, the chairman, and others in this committee introduced legislation in mid-December. We requested your help, with a letter to you on December 12, to provide temporary funding. Whatever the thoughts were on the possibility of deferring permanent action with this temporary thing I think we see now that it was poor judgment. We have this disastrous consequence on our hands.

I hope that EPA will join with us to enact legislation to keep the program going until we can work out the reauthorization bill. I urge the administration not to pass up this second opportunity.

We all share a tremendous frustration, but not any more than the citizens who live near these sites and who want some action and now face potential catastrophe. Once we destroy the structure

of the organization, I think we are going to create delays that nobody anticipated.

The committee has reported, as the chairman indicated, a bill in 1984 and a bill in 1985, and Senate action on the bill was delayed until September due to opposition from the administration to the funding mechanism. But the administration offered no constructive alternative. Needless to say, the problems on the other side of the Capitol compounded the delay.

Tuesday, the New York Times published a poll indicating that 66 percent—quite a statement—66 percent of the people in America believe environmental improvements are necessary regardless of cost. I am shocked that the administration doesn't understand what the American people want in this regard.

I intend to press Lee Thomas. The relationship is one of respect and friendliness, Lee, but there is a heavy burden on EPA right now to justify why it has chosen to shut down this program when in response to the letter I sent December 12, along with colleagues from the committee including the chairman, it took until January 21 to get a response, and the response is not one that I think, frankly, is directed to the question.

So, we hope we will be able to get your support and that we will be able to avoid this catastrophic action.

I thank you, Mr. Chairman.

Senator STAFFORD. Thank you very much, Senator Lautenberg.

Members will remember that it has been the custom in this committee that the Chair recognize members in the order in which they arrive. Following that custom, until members might wish to change it, Senator Moynihan, I think you were next, to be followed by Senator Burdick and Senator Mitchell.

OPENING STATEMENT OF HON. DANIEL PATRICK MOYNIHAN, U.S. SENATOR FROM THE STATE OF NEW YORK

Senator MOYNIHAN. Mr. Chairman, yesterday Mr. Thomas stated that short-term funding would be necessary if we did not have a bill by April 1. It is not likely that we will have a bill by April 1. Therefore, I think the committee should hear from you, Lee, what do you propose that we do now.

Thank you.

Senator STAFFORD. Thank you very much, Senator Moynihan.

Senator Burdick.

Senator BURDICK. Mr. Chairman, I will abide by your subtle suggestion.

Senator STAFFORD. Well, it takes one small State's Senator to understand another.

Senator Mitchell.

OPENING STATEMENT OF HON. GEORGE J. MITCHELL, U.S. SENATOR FROM THE STATE OF MAINE

Senator MITCHELL. Mr. Chairman, I will ask that my full statement be inserted in the record.

I will just say briefly now and echo the words of other members of the committee this is a critical time. This is a very important

program. It is obvious that we must take some action now, and the only question is what the scope of that action should be.

Clearly, our first priority is to begin and conclude the conference as soon as possible. Nonetheless, it is clear that interim action to preserve the program has become necessary, and I urge Mr. Thomas to lay out for us as clearly and precisely as possible what steps the administration recommends we take in that regard now.

[Senator Mitchell's statement follows:]

OPENING STATEMENT OF HON. GEORGE J. MITCHELL, U.S. SENATOR FROM THE STATE OF MAINE

Mr. Chairman, I thank you for scheduling this hearing today, so we can obtain a more detailed understanding of the status of the Superfund program and the timeframe in which we must operate to avert a catastrophe in this program. The key factor clearly is the Superfund conference, which we are anxious to start. Hopefully the House will name conferees shortly so conferees can begin meeting.

This hearing should provide us with the information we need to decide whether we should consider a temporary extension of the program so that we can continue cleaning up Superfund sites without unnecessary delay due to a temporary shortage of funds.

There has been some uncertainty about EPA's position on a temporary extension. I hope today we will learn the agency's views on an extension.

During the last session, I supported such an extension. If conferees cannot reach agreement in time, which I understand is April 1, we must have an extension.

Clearly, however, our first priority is to begin the conference and reach agreement as quickly as possible, so we will have a full 5-year reauthorization of this essential program.

Senator STAFFORD. Thank you very much, Senator Mitchell.

Mr. Thomas, I guess we are ready to hear from you.

STATEMENT OF HON. LEE M. THOMAS, ADMINISTRATOR, ENVIRONMENTAL PROTECTION AGENCY

Mr. THOMAS. Thank you, Senator, and I will be brief.

As you indicated, I don't have a formal statement. I just wanted to talk through with you the status of the program and then get into questions so we can talk through what the questions are at this point or at least what our options are.

Let me just say up front, though, that I have enjoyed the last 3 years' working relationship with this committee. As you know, I came to EPA in this particular program area dealing with Superfund, and it wasn't an easy time. I think we—and I say we deliberately—I think we, meaning the administration and this committee, have worked hard to bring the Superfund through a tough time to a point where we have strong momentum in that program, and we have done that together.

I would commend this committee for the kind of action you have taken, particularly during the last year and a half as you have worked on Superfund reauthorization. You have been very timely in that action. You have given us full opportunity to participate with you as you have gone through that, and we appreciate it.

Our relationship has not been one where we have sat down and tried to cast blame among each of us as to why certain things happened. It has been one where we have worked together, I think, toward a common solution. I am fully committed to do that with you not only today but in the future, as I think you know.

This is a difficult problem, as you so rightly indicated. We have been working on it for quite a while.

As you know, our taxing authority under Superfund expired October 1. Therefore, the revenue we have been able to use in Superfund has been the revenue that we were able to sustain as a result of slowing the program down back in August. That is a step I took after developing a number of contingency plans, working with you and counterpart committees on the House side, to let you know that we were are going to begin slowing the program down in anticipation that it might not be reauthorized by October 1.

We were able to carry over $206 million. Actually, it was $185 million in carryover and the remainder of the money has come from interest payments coming in this year.

Our appropriation this year, by the way—our appropriation committees and then the full Congress recognized the $900 million that we asked for in the administration's budget and appropriated that money. However, it put a fence around it and said we couldn't use it until the authorization had literally been completed.

So, as you can see, that rapid increase in funding in the Superfund program for 1986 dipped dramatically when we got to actual practice this year. So, the $206 million is what I am looking at as far as the money I have to operate this year on a slowdown basis.

Now, let's look at how the $206 million is being used. About half of it, or $99 million, is for salaries and expenses. We have about 1,500 employees in the Superfund Program, Federal employees, and they range across the emergency removal program, the enforcement efforts, administrative support, the site managers. Of the 1,500 people, most of them out in the field in our regional offices.

That money is the amount of money necessary to continue those people for the full year through the remainder of this year.

The other three uses of it were the other priorities that I said we had to maintain under the slowdown program. Obviously, the emergency removal program is one, our ability to get in where we had an emergency, where there was a threat or a potential threat that needed to be dealt with. So, we needed to maintain money in the removal program.

Our enforcement effort is one, trying to maintain our enforcement effort as a strong enforcement program. On the remedial side, we are trying to continue the projects we had underway, not starting new projects, but continuing the projects we had underway. Bear in mind we have over 400 site projects underway around the country. So, continuing those projects is what you see on the remedial side.

Let me show you, then, what that means as far as site work. The two most critical components for site work are remedial design and remedial construction, because those are the components when you finish the engineering work. You finish that 1½ or 2 years' work at a site, you make a decision on how to clean it up, move into the design stage, or you finish design and you move into the actual construction.

So, beginning last August, I decided we would not go forward with any new project starts in design and construction. We would continue the projects we had underway. You see the red line is the projection we had made as to where we would be, going up, obvi-

ously, dramatically. And as you recall from my previous conversations, a lot of that is the result of the wrap-up of 2½ years ago when we really moved forward aggressively with those engineering studies. Well, the payoff is now. The designs and constructions are going up rapidly, or were going to go up rapidly this year, the next, and the next.

The next chart will show us in summary fashion where we are as of April 1. We took a snapshot on April 1 on the remedial program.

Under the proposed budget, which was the $900 million budget, on the engineering studies, we would have had work ongoing at 413 sites. As a result of not starting new ones, we will have 91 on hold. In other words, 322 will be ongoing. We will have 91 on hold.

Obviously, we are not going to start any new ones after April 1, but we also will begin to have to shutdown the existing ones. We have been maintaining those existing ones, but we begin to get the incremental funding elements. In other words, when you fund a project over 2 years, you don't fund the entire thing at one time. For fund flow, you fund it in increments. So, we will begin to get increments in those studies, and we will begin to stop work on various projects as we go along through the remainder of the year in addition to not starting new ones.

As I indicated, in the design and remedial action part, which is where most of the money is when you talk about obligating money—an awful lot of it is down in the construction stage—we will have 74 design projects on hold. We will have underway 15, and they will fall off during the rest of the year. It is the same on remedial action.

Now, let me just show you the time line of where we are, because I have to take the end of this fiscal year and back it up. So, in addition to the site work stopping, we haven't been starting site work, and the existing site work will now begin to stop. We also, during this quarter, the end of this quarter, begin to, as Senator Bentsen indicated, start dealing with the structure of the program. We have been dealing with activities while maintaining the structure of the program so we could move it back up quickly.

As we have talked before, that was the way we wanted to try to deal with this slowdown, keep that structure in place, keep a strong removal program, keep a strong enforcement program, maintain your staff, keep ongoing projects going, maintain your structure so that when it is reauthorized, you can move back up quickly, and that is where we still are.

But now we are coming to the structure. Beginning in mid-February, we will notify several of our contractors that we are going to have to begin termination procedures, that we will terminate come the 1st of April. We have to give them notification that we may terminate the contract.

So, over the next several weeks we will start that process. Now, we won't have to terminate any of those contracts until April 1, and then there are some other contracts that will be terminated on over the year.

You understand that a large part of the support work on the Superfund Program is through large contracts. The contractors who work with us to do the engineering work, the contractors who work with us to do the design work, the contractors who support or en-

forcement effort are technical contractors who work with our staff. So, contractors are a major part of the program, just as our staff is.

When we begin those contract terminations, as you can see, on April 1, contractors will begin laying off their staff. There are several hundred contract personnel and they will begin laying them off.

Now, to start them back up, you have two problems. Even if we have a contract that we could start back up quickly, they have to go and rehire staff. But if we have actually terminated fully the contract, we have to go back through the contracting mechanism to reestablish that contract base, and that is a lengthy timeframe as far as Federal procurement is concerned. So, that is the second problem that we could incur if we begin terminating contracts.

The other thing we will begin starting in mid-February is the furlough process. As we have looked at no funding at the end of the fiscal year, we have begun to back up what would we need to do as far as our employees are concerned, and we have looked at the potential of long-term furloughs if we still haven't gotten a reauthorization by that period of time.

We get into the Civil Service procedures for long-term furloughs, and they are similar to reduction in force procedures. The point that Senator Stafford made is where we would be.

We will, in mid-February, begin the process of looking across our reduction in force registers for employees across the Agency, and it would not only affect Superfund employees because of bumping rights and other procedures under reduction in force. If we ever got to the point that we had to furlough those people, then they bump across the Agency, so you begin to impact the entire Agency. I am sure you have probably heard discussions of reduction in force procedures before. So, it is not just the 1,500. They may not be the ones who are furloughed. Some of them may be and some may not. It may be other people within the Agency, because you have large pools depending upon seniority, performance, and a variety of other things. You come up on the RIF registers as the person who would be furloughed.

So, we would anticipate that initiation of the process would need to take place beginning in a couple of weeks in order to have in place not only the information but begin the process in the spring of notifying employees, identifying which ones would be furloughed come October 1.

As you run on through the year, you can see the other parts of the program begin to drop off. By mid-June, the laboratory program runs out. As you recall, one of the major components of the site work is the laboratory program. We have large contract laboratories we would have to shut down.

The remedial program would shut down in mid-July. Obviously, the last thing we want to run out is the removal program and ongoing case activity under the enforcement program. Then, come about mid-September, we are notifying people of furloughs.

So, that is the timeframe we are talking about, and I don't think there is any question among any of us that none of that do we want to happen. As you have all said, that is exactly what we have all been working against over the last 18 months, or 2 years. But

we are at a point where those are the kinds of actions that will begin to take place.

I guess the key point to be made is that the second quarter, which is the one we are in, is the one where we begin to have to take some action as far as notifying people, namely contractors, identifying employee registers, and it is at the beginning of the third quarter, April 1, where we would literally have to begin taking some action, where we would have the impact, Senator, on the structure of the program that we don't want to have.

So, I think that is the kind of timing we are talking about. I think we are talking about the next couple of months as a timeframe to either complete the reauthorization or to establish some kind of temporary measure that would provide us support, so that come April 1 we have some funding and we don't have to proceed with that disastrous action.

Now, the point we are at, I think, or the point I am at, is exactly the point that Senator Bentsen ended up with. I am prepared to work with you on both sides of the issue, work with you as I have been trying to do on the long-term reauthorization process, but also work with you on a parallel track if necessary. I will provide you the necessary details if you feel that long-term process is not going to be completed in this kind of timeframe and lay out what kind of funding would be necessary for what kind of elements during the remainder of the year or thereafter.

As I was talking with Senator Stafford the other day, I think that given the timeframe we are talking about, given the potential that you see as far as long-term reauthorization is concerned, it appears that a parallel track is going to be necessary over the next couple of months.

Now, let me just clear up exactly where I have been as far as long-term reauthorization.

Senator STAFFORD. May I interrupt just long enough to suggest that the graph with respect to shutdowns, the last one that was up, be left up while you are testifying, Mr. Thomas?

Mr. THOMAS. Sure.

The long-term reauthorization, I think, as each of these members said, is the goal. It is certainly not something that we can move away from as a goal. It is obvious, I think, to anybody from these charts that you don't deal with this program on a short-term basis. When you talk about projects that run 1, 2, 3, 4, 5, 6 years, which is what some of these projects run, with incremental funding along that period of time, you make decisions today based on what you anticipate action is going to be over the next several years on a project.

That is why I have talked with you at length about the need to have continuity over time as far as funding is concerned, continuity over time so we can make decisions today to keep projects running, as opposed to trying to fund them on a short-term basis.

But, obviously, we are at a point where we have to talk about both, I think. And I think that you are in a far better position than I am to sense what the reality is of completing this action by April 1 or shortly thereafter or a good while thereafter. I am in a position to talk to you about what kind of money I think we need over

periods of time for what kinds of action and how we would go about using that money.

So, Senator, that is basically where we are. It is a similar briefing to the one we went over with your staff. I plan to send a letter to all the Members of Congress laying out this exact same information. We have had briefings on the House and Senate side, as you know, and I am ready to answer any questions you or members of the committee may have.

Senator STAFFORD. Thank you very much, Mr. Thomas.

I think, gentlemen, since there are six of us, that if we limit ourselves to 5 minutes apiece, if that is agreeable, that will keep Mr. Thomas here just 5 minutes beyond his deadline if he can accommodate us to that extent, and that will have to be it this morning.

I am going to use the first of my 5 minutes to read a letter from Jim Howard, who is chairman of the Public Works Committee in the House, to me, dated today, in which Jim says:

> Thank you for your letter concerning conference consideration of the reauthorization of the Comprehensive Environmental Response, Compensation, and Liability Act and for providing me with a copy of your letter to Gene Snyder which also suggests a schedule to complete action on the reauthorization of the Federal Water Pollution Control Act.
>
> I am prepared to meet at any time or, if you so desire, to have the staff meet to discuss these issues in an attempt to work out an agreement which we can all support. In my opinion, the timely reauthorization of the Superfund program is of critical importance.
>
> Since the House has not decided on the appointment of Superfund conferees, I am obviously not in a position to speak for the conferees with respect to establishing a deadline for action by the conference, but I have no objection to establishing goals but, as you have noted, you are proposing a rather ambitious schedule.
>
> That is my proposal for March 7 as a deadline to completing a conference and sending a bill to the White House.
>
> I look forward to discussing your proposal at the conference meeting.
>
> Best wishes,
>
> Jim Howard, Chairman of the House Public Works Committee.

I am glad to get that letter from Jim.

As I see it, Lee, if we haven't resolved this matter by, at the very latest, some time in March, you will be starting contract terminations on April 1.

Mr. THOMAS. That is right.

Senator STAFFORD. That would be the first really adverse impact of our inactivity on the Superfund Program.

Mr. THOMAS. That is right.

Senator STAFFORD. And that by mid-June, your laboratory programs will run out. But really it is critical, on what you have told us this morning, that we get something done by April 1 at the very latest.

Mr. THOMAS. That is my view.

Senator STAFFORD. As I understand it, if you start the furlough process in another 2 or 3 weeks, that will disrupt not only the Superfund Program but the entire Agency, air, water, pesticides, and so on. I think you have touched on that, but if that is correct and, if so, are there any programs under EPA which will not be disrupted and how severe will the disruption that occurs be?

Mr. THOMAS. Senator, I don't think there will be any programs that won't be affected by that process. I think it will cut across the Agency. We will begin the process in mid-February of developing

the registers in the Agency. The furloughs would not actually begin until nearly October.

Now, I have sent a letter out—it will probably go out today—to all employees of the Agency. I have kept them informed on a regular basis as to where we are in Superfund. This letter will tell them that we are going through this process. I think, as I have said in the past, there is no likelihood that Congress is not going to reauthorize this in a timeframe that will ensure that none of this happens. I mean, they read the papers as well, and I will let them know that we are going to start the process of developing the registers, that no furloughs would begin until October, and I don't have any idea that you are going to let furloughs begin, but I have to keep them informed.

In answer specifically to your question, yes, it would cut across the Agency—regions, headquarters, all programs.

Senator STAFFORD. Then a hiring freeze would start almost at once, would it not?

Mr. THOMAS. Well, we have pretty well had a freeze on in the program because of the slowdown almost since last August. The only thing we have done is replace some vital positions as some technical personnel have left. We have replaced those.

Senator STAFFORD. I would suggest, if members wish to, that those who are down the line for questions go and vote and come back. In the meantime, those of us who are at the head of the questioning will do it now and then leave to vote afterward.

One more question from me in my final minute. Mr. Thomas, one of the reasons this committee has been unable to guide an extension of the Superfund Program through the Congress has been opposition of the administration to either a short-term extension on the one hand or a long-term extension based on a VAT tax on the other.

Can I conclude from your comments this morning that the situation has changed in any way? Specifically, if this Senator and others were to propose a 6- to 12-month Superfund tax, would the administration still oppose us in this effort?

Mr. THOMAS. Senator, it obviously depends on what that tax would be, but our position has changed at this point. We want to work with you on the idea of a short-term extension. I mean, I think it is obvious to all of us that that is an option that has to be dealt with, but the substance of the tax is obviously an issue.

I do have a suggestion in that regard, and I don't know how the committee would receive it, but I think if you talking about a short-term extension, we ought to think about the possibility of a short-term extension of the existing tax just as is with the possibility of borrowing against general revenue for the remainder that is necessary.

Senator STAFFORD. That, in substance, is what Senator Lautenberg and I propose.

Mr. THOMAS. I understand that.

Senator STAFFORD. All right, my 5 minutes are up. Senator Bentsen.

Senator BENTSEN. Thank you, Mr. Chairman.

Lee, you know of our high regard for you on this committee. My concern is, frankly, that the administration just doesn't give us any

alternative. They tell us they are going to veto the House bill, as we understand it, in its present form or they will veto the Senate bill in its present form.

Frankly, as far as I am concerned, this is not a value-added tax. If it is a value-added tax, it is like none I have ever seen before. It is a manufacturer's excise tax. Senator Wallop and I are the principal cosponsors of that tax. The vast majority of the Senate agrees with that tax. The Treasury representative fought it tooth and toenail before the Finance Committee, and it was passed by a vote of 17 to 2, as I recall, right across party lines, sponsored by a Democrat and a Republican, and supported by Democrats and Republicans.

We went to the floor of the Senate, and it was passed by a vote of two to one. It lost barely in the House by a vote, as I recall, of 220 to 206. I think the fact that the EPA sent us a list of the potentially responsible parties for toxic waste sites really corroborated what I and Malcolm Wallop and the rest of the members of the Finance Committee said that you need a broad base tax, because, as you gave us the list, it showed that industries such as aerospace, airlines, automobiles, electronics, eye products, groceries, beverages, computers, and dozens of others were responsible for these Superfund sites.

I know it may be smart politics not to offer an alternative tax and to just sit back, but that is not good for the country. When we have proposed one on the Senate side and the House has proposed another, we are going to have a very tough time in conference resolving those two. You know that. That is going to be a serious head butting and can seriously delay the implementation by not having the revenues that are necessary.

So, I would urge you if you have some muscle in that administration to get it across to them that they ought to come up with trying to work out an alternative if they are not satisfied with the one that we have proposed in the Senate and not satisfied with the one proposed in the House.

But this is a societal problem. It cuts right across manufacturing. If you get out to a clean industry, supposedly, like high tech, in the Silicon Valley and look at the Stringfellow site where they are using acid to etch chips and that sort of thing—I just feel very strongly about it. I feel very strongly about this program, and I don't want to see it dismantled, and I don't want to see you lose a lot of valuable employees and then try to bring them back together again.

Mr. THOMAS. Senator, as you know, that is right about how tough that issue is, but I do feel that the administration has come forward with alternatives. I think we have two parts of the problem we have to deal with.

Senator BENTSEN. On a tax basis, I have not seen a serious alternative proposed.

Mr. THOMAS. I guess it is the definition of serious alternative, but we felt the first part of the problem is the amount of money you think you need to raise for the program and the difference between the House and the Senate of $7.5 and $10 billion and the administration at $5.5.

Senator BENTSEN. Well, I will tell you, I think it is irresponsible to talk about going to general revenue at a time of a deficit like this. I think we ought to pay for it, whatever we do.

Mr. THOMAS. Well, Senator, you know the administration has looked across various revenue sources, and the issue of the value added tax or a manufacturer's excise tax or whatever alternative we want to call the tax is one that the administration feels very strongly about. We came forward with an alternative proposal for funding the program and an alternative at $5.3 billion and even with an alternative of a borrowing authority against general revenue to be repaid from those taxes if it was absolutely necessary to get up to the $7.5 billion.

But the first thing you have a problem with is you are trying to fund the program at too high an amount. If you came down to an amount that we think is a realistic amount we feel we have provided an alternative, and we came forward with a second alternative when you wanted to go to a higher amount.

Senator BENTSEN. Lee, do you really think we are going to cut this thing back to $5 billion when we passed it in the Senate at $7 and it goes through the House at $10?

I don't think that is realism. We think we have a big enough problem that deserves what we have done in the Senate, as a minimum, to try to clean up these toxic waste sites. We have given you a stable source of revenue across all manufacturing companies.

My time has expired.

Senator CHAFEE [presiding]. Thank you.

Lee, what are you proposing here? You are proposing what you call a short-term extension. You are suggesting that. How long would you have it for?

Mr. THOMAS. Senator, I would have probably said something different a month or so ago, but now, and particularly given, I think, some of the statements today, I think what we need is a year extension of the existing tax anyway with the authority to borrow against general revenue for the additional money we need.

One of the reasons I say that is because that tax generates about $275 to $300 million a year. So, I would know at a minimum we have that much revenue coming in, and also the amount of general revenue that could be appropriated over and above that with borrowing authority so that it could be paid back from that tax over time.

Senator CHAFEE. Are you suggesting that we would keep the program going with the current funding which is what, a little less than $1 billion a year?

Mr. THOMAS. No, current funding under the current tax is about $300 million a year. So, to run the program any higher than $300 million a year you are going to have to supplement with general revenue, and that is why I am suggesting borrowing authority.

Senator CHAFEE. And are you suggesting that we shoot toward that $5.3 billion over 5 years that you folks originally proposed?

Mr. THOMAS. Absolutely. I still think the $5.3 billion is the figure you ought to shoot for. Now, I recognize you have gone above that mark a good ways, and the House hit above that.

Senator CHAFEE. And you get the difference from the general revenue.

Mr. THOMAS. That is what I think we would have to do, and I think we ought to borrow and pay it back.

Senator CHAFEE. That is not acceptable. That wouldn't be acceptable here.

So, really, our quandary is that this committee doesn't want to get to borrowing from general revenue. You know that.

Second, we want the program at a higher level.

If we went along at current funding, that is, the current policy of taxation, would that meet these graphs you have here? Are these graphs based upon your $5.3 billion?

Mr. THOMAS. Are you talking about the ones on design and construction?

Senator CHAFEE. Yes.

Mr. THOMAS. They were based on the $900 million program, which is what we got appropriated this year, which is a part of the $5.3 billion proposal that the administration made.

Senator CHAFEE. We really have a very difficult problem here, and I don't quite see the solution. I know the solution, the solution is to get this conference between the House and the Senate going quickly so we can come up with some compromise between the $7.5 billion and the $10 billion and some form of a taxation, and that has overwhelmingly been voted for, certainly in this body, and I think a similar vote in the House for their proposal.

Mr. THOMAS. They didn't approve the VAT.

Senator CHAFEE. No, I know it, but they had a source of funding for their proposal.

Mr. THOMAS. That is correct.

Senator CHAFEE. Principally, a waste end plus the expansion of the petrochemical tax.

Mr. THOMAS. That is right.

Senator CHAFEE. All right. Well, I can see the size of the problem, particularly when we realize that these charts are based not on the current form of taxation but based upon your $5.3 billion.

Mr. THOMAS. That is correct. So, Senator, as you say——

Senator CHAFEE. Let me ask you quickly, Lee, what would these charts look like if we were at the current source of funding for a couple of months or so? Would that flatten way down?

Mr. THOMAS. Pretty well where that flat line was—you don't start any new programs, any new projects, and you maintain a very minimal program which is pretty well where those flatlines were. I don't know whether you have that one or not. Do you see that flat blackline?

Senator CHAFEE. Yes.

Mr. THOMAS. That is running the program with no new project starts, just existing projects.

Senator CHAFEE. OK, fine.

Senator HUMPHREY [presiding]. We will just recess for a few minutes until the other members return.

I don't believe I really need to ask any questions. I think the situation is perfectly obvious to everyone, and the problem seems more political than fiscal inasmuch as we are having some difficulty getting this conference convened. As I understand it, the principal problem is that the House is refusing to name the conferees.

In any event, we will recess until the other members return.

[Recess.]

Senator MOYNIHAN [presiding]. In the absence of the chairman and other senior members, I will take the liberty of just calling the committee back into session.

We learned, Mr. Thomas, that you can stay a few minutes longer, and I know that Senator Mitchell has some important questions he will want to ask. I have only one, and try to tell me everything that you know with the understanding that sometimes you just don't know.

You said just before we left that you were prepared to think that short-term funding, interim funding to keep the program going, was now necessary. You said that, right, sir?

Mr. THOMAS. It looks to me like it is, Senator. But hopefully that won't take our eyes off of getting the long-term funding issue settled.

Senator MOYNIHAN. I guess we face the realities of what a House-Senate conference is and the House hasn't appointed conferees.

Mr. THOMAS. That is right.

Senator MOYNIHAN. We have seen that these things can take as long as there is time available, and that can be 12 months.

Now, my question is very simple. Once again, you said, it looks to me, is your phrase. Does it look to OMB and are you speaking for the administration?

Mr. THOMAS. I am.

Senator MOYNIHAN. You are, sir.

Mr. THOMAS. Yes.

Senator MOYNIHAN. I am glad to hear that. You have changed your view, but the situation has changed. We have spent a lot of time in this committee harassing the administration. That is natural institutional behavior, but this problem is one we have created for you. I can see why originally you said you weren't going to talk about short-term funding because that might let us not do what we are supposed to do which is enact 5-year legislation. You see we haven't done it, so the administration now says if we could get a bill of the kind our distinguished chairman and Mr. Lautenberg got into reconciliation, that is fine in one form or another.

I think it is clear that is what the committee should do, and that is the only question I have, and I thank you for bringing this information.

Senator Mitchell.

Senator MITCHELL. Thank you very much, Senator Moynihan.

First, Mr. Thomas, as you know, there are seven sites in Maine. I would ask you to provide me in writing at your earliest opportunity a statement as to the status of those sites, in effect where they fit into those tables you have been presenting us with, where they are located, and what effect this would have on them. I would appreciate your doing that promptly.

Mr. THOMAS. Senator, I have a list of all the sites and where they fit for all States, and I am going to get that out this afternoon or in the morning to all members.

Senator MITCHELL. I assumed you had that information ready because obviously you would require the underlying data to make those charts.

Now, on the broader question, we have three different institutions, the Senate, the House, and the executive branch all now committed to extending the program but none of them agreeing as to how best to achieve that result. So, we are in the circumstance that is fortunate in that there is no question as to people's motives or no question as to objective. It is unfortunate in the respect that we can't agree on the best way to achieve that objective.

Whatever may have been the view of any of those three institutions or the individual members thereof regarding a temporary extension, the facts of life now are that there must be an extension, and I think that is also now the subject of consensus among all three institutions.

So, it seems to me, then, that the only remaining questions are, first, the length of the extension which is the least important part of that question but, more importantly, what level of funding will be required in the extension, the timing of the receipt of those moneys, and, finally, the source of those funds.

I am sorry we had to leave to vote. I understand you proposed a short-term extension of the current tax with authority to borrow against general revenues. My question is, to what level of funding do you propose to apply those funding sources?

Mr. THOMAS. Senator, I hadn't indicated a specific figure. First, I was also asked about timing, and I suggested that a year would be good time. Obviously, I sure hope we are not talking about a year before we go to reauthorization, but given the situation we have had before, having a year for some stable planning would be very helpful.

The second thing is we are looking at two issues, I think. One is at what level do you want to run the program? Do you want to run it at a maintenance level which is, say, your black line there, no new project work, trying to maintain your existing projects and complete them? And that presents all kinds of problems, as you know. All those projects that I indicated are on hold just grow and grow. Or do you want to try to increase the program?

So, you are talking about two different funding levels. I say if you want to just maintain the program during that period of a year, we are talking around a $300 million figure, $300 or $350 million figure during the year's period of time. Now, the existing tax structure raises around $275 million, so you have to borrow against whatever over and above those taxes you would need from general revenue.

But there are major problems with just maintaining that level. There is no point in going into a lot of detail. You saw them.

If we want to try to get the program back up to the proposal that we had, say, with our $900 million request which is what Congress appropriated to us this year, I will have to go back and we will have to do some work on that, say, take a year's period of time. But if you wanted to look for the remainder of this year and then just add another 6 months on that, I think you are probably talking about needing between $800 million and $1 billion minimally to get the program back up to the level we were running.

Senator MITCHELL. Well, let me say, Mr. Thomas, that latter course seems to me to make the most sense. If you accept the premises which I stated earlier that all three institutions agree on

the need to continue. The three disagree on the level of funding. The House has enacted legislation at a $10 billion level, all these figures stated over 5 years. The Senate has enacted legislation at $7.5 billion over 5 years. The administration has proposed legislation at $5.3 billion over 5 years.

All three having agreed on the need to extend the program, it seems to me a rational course of action to take the lowest figure, the administration figure, at $5.3 billion, and construct an extension for 1 year at that level.

Mr. THOMAS. Using existing tax and borrowing to get the additional money necessary?

Senator MITCHELL. Well, I am open to that. I voted for the tax that the Senate applied. I would personally like to see that take effect at the earliest possible moment, but I understand that remains one of the subjects of contention. So, we have to construct a mechanism, but first we have to agree on the scope of the program that is going to be implemented over this year's extension.

Mr. THOMAS. I think that scope of program makes sense, Senator. I agree with you. I think we could support that scope of program and we could support the existing tax extension with the authority to borrow against general revenue to run that scope of program and we would pay it back out of the taxes that were enacted beyond that.

Senator MITCHELL. Well, I am delighted to hear that, particularly as you indicated in response to Senator Moynihan that you are speaking on behalf of the administration. I would hope that very shortly—obviously you cannot do this at this moment coming here on short notice which we appreciate—that you would submit to this committee a specific proposal to accomplish that objective with some indication of the immediate timeframe within which the Congress must act to meet that objective.

I emphasize to you this seems to me to be the minimum level of activity that ought to occur given the differences in the Senate and the House regarding the level of funding. It would be justifiable for you and understandable for you, although something I disagree with, to refuse to do this at a $7.5 billion level figure or $10 billion level figure. That hasn't been resolved. It seems to me that this level everyone agrees on, at least this much, and we can go forward.

Mr. Chairman, I will be glad to terminate anytime anybody else comes. I don't want to go beyond anybody's time.

Senator STAFFORD. Well, Senator, why don't you go ahead for a bit longer. We are waiting to see if Senator Lautenberg arrives. If he does, we will give him some time. If he doesn't, we will reserve the right, and we do reserve the right to him, to ask a few questions in writing in lieu of his being here.

However, the Chair would propose to terminate in about another 3 or 4 minutes unless Senator Lautenberg gets here.

Senator MITCHELL. Mr. Chairman, do you wish to use any of that remaining time?

Senator STAFFORD. No, Senator, you go ahead. I have asked the questions I wanted to.

Senator MITCHELL. All right.

Mr. Thomas, may I ask you, then, this concluding question: At what point in time, how soon, really, do you estimate that you will be able to give to this committee a specific proposal along the lines we have suggested with a timetable for action, and indication as to when final action on this must occur to prevent these disastrous results?

Mr. THOMAS. Senator, the timeframe is the one I pretty well laid out there. In other words, we need to have action by April 1. If we know that action is underway, then it certainly mitigates the problems. We can let everybody know, meaning our employees and contractors, that action is underway.

But final action I think would need to take place by April 1. It is that kind of timeframe.

As far as getting you a specific proposal, I will head back from here as soon as I make this speech I am going to make when I get out of here, and we will start working through the specific proposal that I think we have talked about today, because I do think that specific proposal is something that we can support.

Senator MITCHELL. Well, I thank you very much.

Mr. THOMAS. And I think over the next several days, hopefully, we will be able to get you something specific on that.

Senator MITCHELL. For myself, Mr. Thomas, I thank you. As usual, your testimony is forthright. Even when we disagree, you are forthright, and we look forward to working with you on this.

I will say, with all due respect to my colleague, Senator Moynihan, I don't quite share the absolution theory of the administration's role in getting us to this point that he does. I think it is something we have all gotten to by virtue of our disagreement among it, not as to motive but as the means by which we disagree as to reaching it. So, I think it is something we have all gotten into together and hope we can all get out of together for the best of this country.

Thank you, Mr. Chairman.

Senator STAFFORD. Like John Wayne in those movies, Senator Lautenberg has arrived in the nick of time.

Senator MITCHELL. Mr. Chairman, he has been waiting outside the door for 11 minutes to make this entrance.

Senator LAUTENBERG. I thank you, Mr. Chairman. You may now unlock the leg chains from Mr. Thomas here.

Senator STAFFORD. Well, we are going to let him go in 5 minutes, Senator.

Senator LAUTENBERG. OK. I appreciate it, and I am sorry I had to be on the floor with Conrail when this is the most important railroad assignment that we are working on in terms of whether or not we are going to, to use the expression, derail.

Will you be able to supply the committee with some analysis of the funding steps necessary to prevent the Agency from taking the kind of drastic steps that you outlined?

Mr. THOMAS. We can.

Senator LAUTENBERG. Tell me something, what is the full complement of the Superfund personnel?

Mr. THOMAS. It is about 1,500 employees.

Senator LAUTENBERG. So, we are talking about the——

Mr. THOMAS. That is Federal employees. Over and above that, obviously, you have contract personnel and——

Senator LAUTENBERG. I understand, but those you were talking about furloughing is essentially closing down that part of the Agency.

Mr. THOMAS. It is the 1,500 employees, but they wouldn't necessarily be the Superfund employees, because you would bump across the Agency, but that is the number you are talking about. There would probably be a number of them that were not Superfund employees.

Senator LAUTENBERG. Right, but it would leave all of those spots vacant.

Mr. THOMAS. We wouldn't have the money to fund them. We would vacate them.

Senator LAUTENBERG. When would the furloughs start?

Mr. THOMAS. Right before the 1st of October.

Senator LAUTENBERG. It would start just before the 1st of October, so they would continue on the payroll until that time.

Senator STAFFORD. If you would yield, Senator, I think it is worth noting that the notice of furloughs would be going out much sooner than that.

Mr. THOMAS. The notices would go out sooner than that. We actually would begin over the next couple of weeks beginning to develop the furlough packages, the register packages, on each employee which is the basis for making furlough decisions across the Agency. So, we have to begin the work associated with furloughs in this program in February.

Senator LAUTENBERG. So that for all practical purposes, they have notice now.

Mr. THOMAS. That is exactly right, and I am sending out a memo this afternoon to all of them further explaining what is going on and saying that I am sure that this is not going to happen.

Senator LAUTENBERG. Really, that is so comforting, Lee.

Senator STAFFORD. Let the record show the Administrator was smiling when he said that.

Senator LAUTENBERG. I hope that the Administrator is a wealthier man than I thought he was, because he may have to personally finance this program with that optimism.

Mr. THOMAS. I am not making that guarantee, Senator.

Senator LAUTENBERG. So that what we are doing is saying to people, you are on the edge of the precipice financially, maybe even professionally, because you are going to have to compete with some of the people you are working with today for jobs out there. Fair enough?

Mr. THOMAS. That is correct.

Senator LAUTENBERG. We are kind of throwing people out into the employment world because it is not fair to ask these people to sit and wait until we get done with our negotiations here. Are these highly skilled people for the most part?

Mr. THOMAS. The majority of them are engineers, legal personnel, skilled personnel absolutely.

Senator LAUTENBERG. I assume that there is some demand in the marketplace for people with these skills and experience.

Mr. THOMAS. Yes, sir.

Senator LAUTENBERG. The possibility is that we could lose them.

Mr. THOMAS. Oh, I think we will begin to lose them. I think the people are not going to sit around and wait until October 1 if they think you are not going to pass this law and have money after October 1 fairly soon. They are going to start looking for other jobs and they are going to start taking them.

Senator LAUTENBERG. Sure, and again for the reason that they are going to have to compete with each other some for the positions that are out there.

Mr. THOMAS. Sure.

Senator LAUTENBERG. I think that kind of tells us where we are. We can discuss various funding schemes, but it disappoints me when I hear someone as trusted and respected as you are to agree that the funding level that is proposed by the administration is sufficient—there is such a variety of opinion on that—because that, in effect, Lee, I think helps to curtail the energy necessary to expand and refund this program.

However, we are almost at the edge of the philosophical debate and not only how much does it take but how do we get it funded.

I wanted to ask you about what the effects might be of Gramm-Rudman in terms of the 1987 budget, assuming for the moment that we authorize it, at $900 million for this year.

Mr. THOMAS. Congress has approved our appropriation at $900 million for this year for Superfund, but it is not available to us because you haven't reauthorized.

Senator LAUTENBERG. Right. In 1987, what might be the effect of Gramm-Rudman?

Mr. THOMAS. Well, Gramm-Rudman this year, for instance, in 1986, resulted in a 4.3-percent reduction across my Agency, including Superfund. So, you reduce the $900 million by 4.3 percent even though I didn't get the $900 million.

Senator LAUTENBERG. Right, $36 million, roughly.

But next year, based on what some of the forecasts are—I sit on the Budget Committee as well, and we had Mr. Penner and Mr. Bowsher agree that maybe 25 percent cuts might be necessary next year on the nondefense side.

Mr. THOMAS. The Gramm-Rudman-Hollings law is one that everyone still seems to be wondering what its impact will be, particularly everyone who runs a Federal agency. I know what its impact will be within the 1987 budget the President is going to submit to you next week. My fear is that you won't enact that budget, and my fear is that those automatic——

Senator LAUTENBERG. Because it is too small?

Mr. THOMAS. Because my fear is that you will let those automatic sequestration processes begin that I saw impact me this year. If you enact that budget, I will sustain not only a strong Superfund Program but a strong Environmental Protection Agency.

Senator LAUTENBERG. We are out of time I take it.

Senator STAFFORD. I think we are. The Administrator has stayed about 17 minutes longer than he had agreed to.

I think, Senator Lautenberg, though, that should Gramm-Rudman be actually applied next October, EPA would be liable to be facing something on the order of 25 percent cuts across the

board. It looks like that is going to apply to almost all of the programs that are exposed to cutting by EPA.

Well, thank you very much, Mr. Thomas, for you and your colleagues to come up here and lay it out for us on where we are. We appreciate it.

Mr. THOMAS. Thank you, Senator.

Senator STAFFORD. That will conclude our business for today, and the committee stands adjourned.

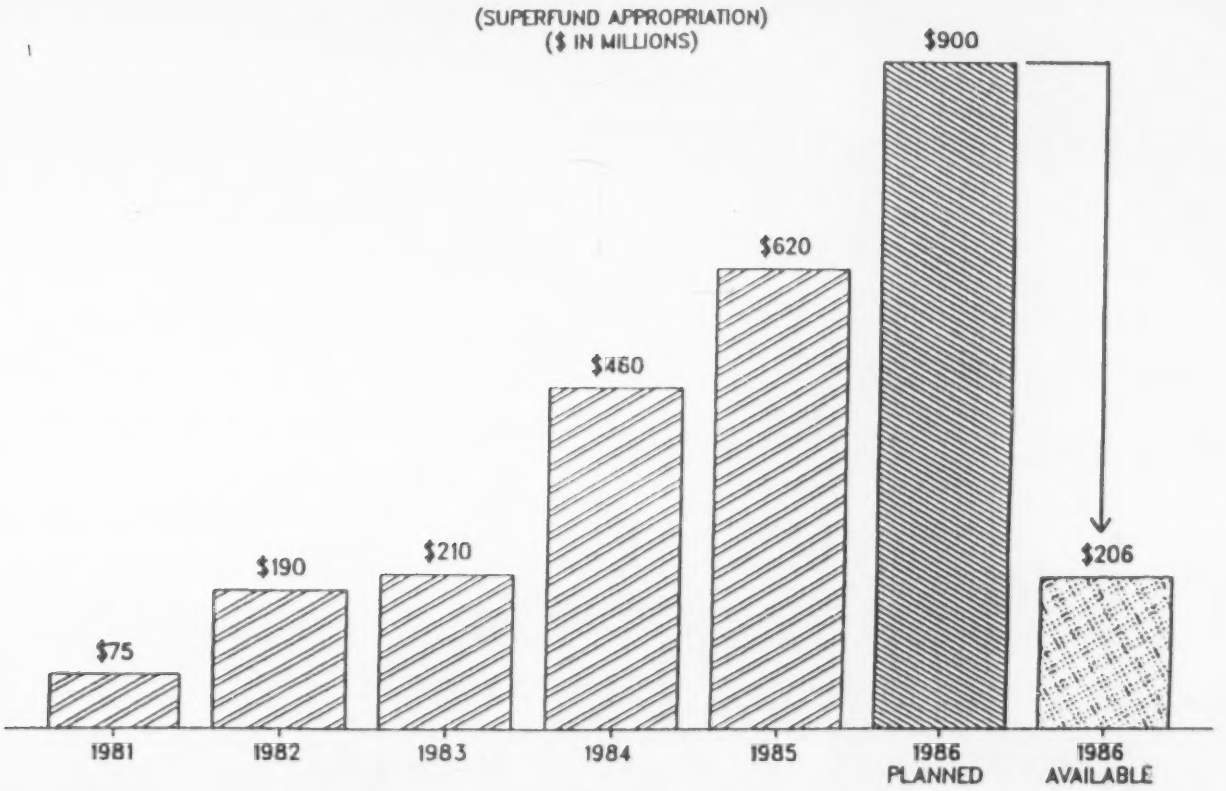
[Whereupon, at 12:17 p.m., the committee recessed, to reconvene subject to the call of the Chair.]

[Charts referred to by Mr. Thomas during his testimony follow:]

SUPERFUND CONTINGENCY PLAN

January – 1986

SUPERFUND WOULD HAVE GROWN TO A $900 MILLION PROGRAM THIS YEAR

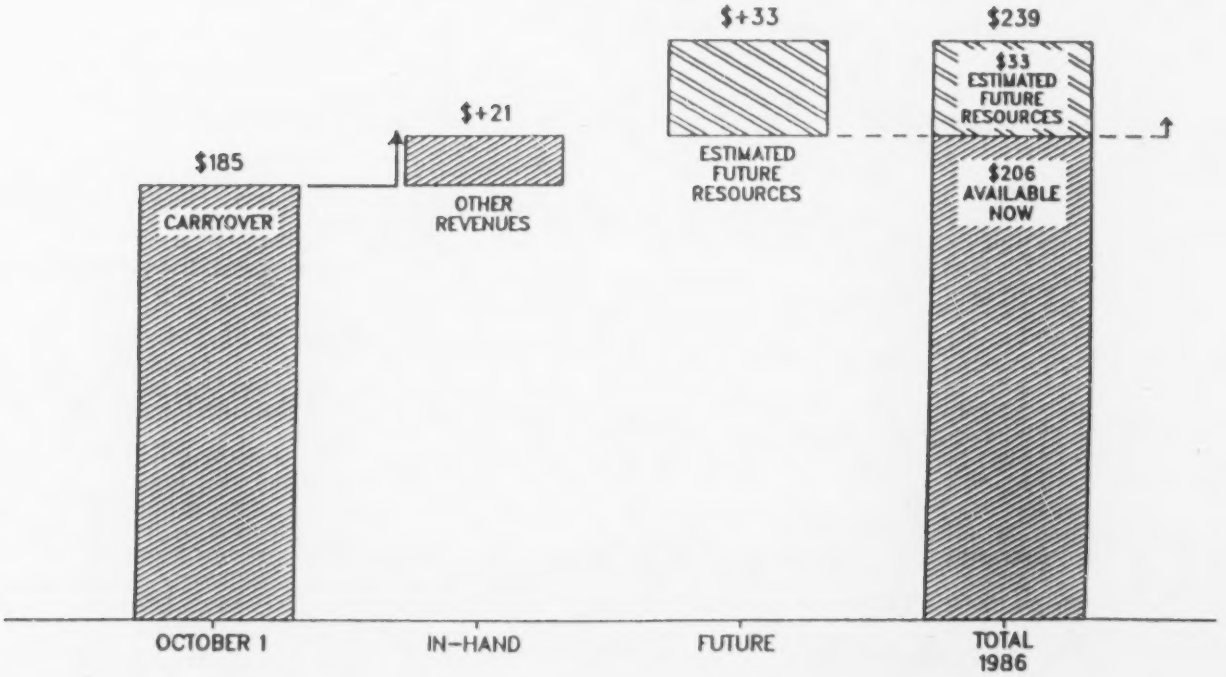


THE CONTINGENCY PLAN WAS ESTABLISHED TO ENSURE SUFFICIENT FUNDS EXISTED TO CONTINUE AT LEAST A MINIMAL SUPERFUND PROGRAM IN 1986

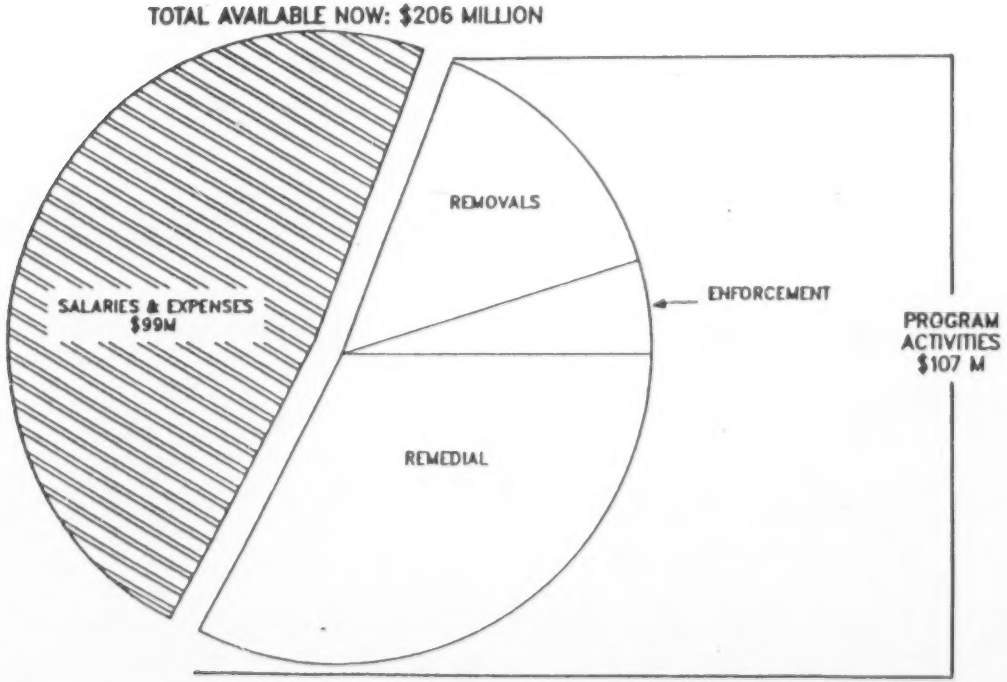
PRIORITIES	FUNDING
SALARIES & EXPENSES	
REMOVALS	*OTHER REVENUES*
LIMITED REMEDIAL	
ENFORCEMENT	*CARRYOVER*

WE SAVED $185 MILLION FROM 1985, WITH UP TO $54 MILLION MORE AVAILABLE BY THE END OF THIS YEAR

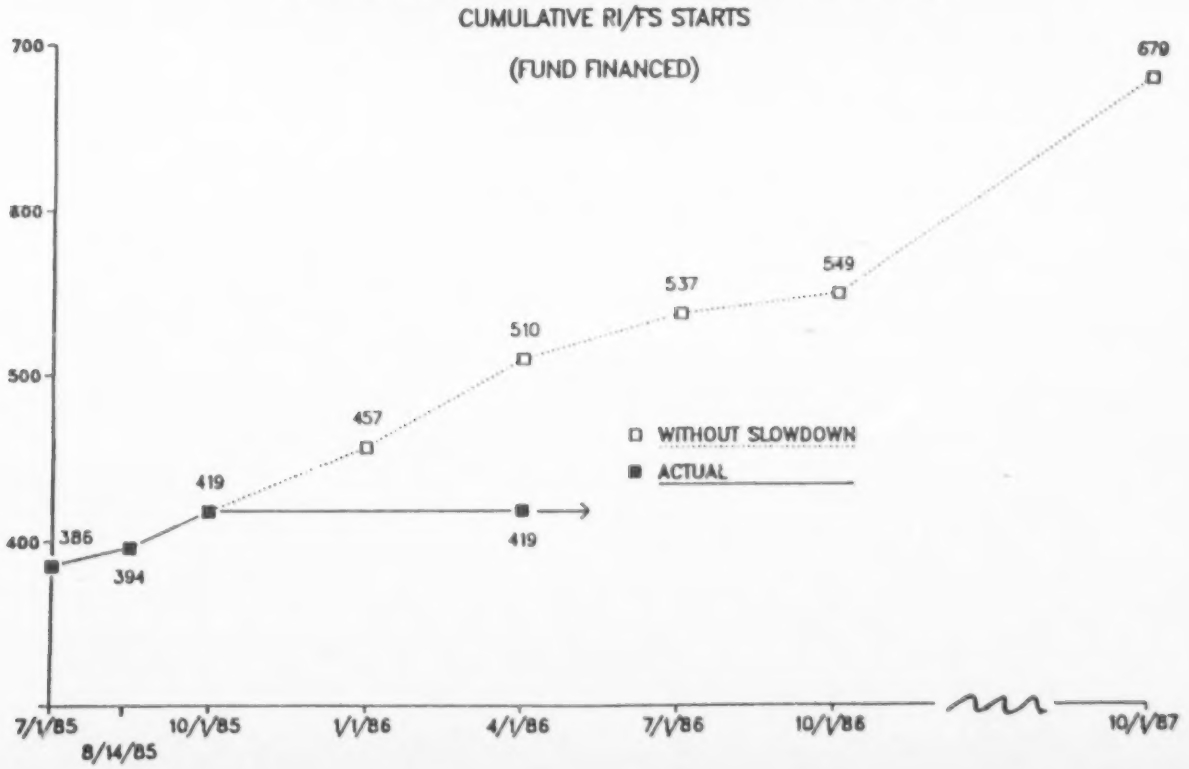
($ IN MILLIONS)



THIS WILL SUPPORT THE WORKFORCE A FULL YEAR, BUT CAN ONLY CARRY EXTRAMURAL FUNDING THROUGH THE END OF MARCH



WE HAVE ALREADY DELAYED MANY NEW RI/FS, DESIGN AND CONSTRUCTION STARTS. THE GAP BETWEEN PLANNED AND ACTUAL STARTS WILL INCREASE WITHOUT REAUTHORIZATION



SUPERFUND SHUTDOWN

MID FEBRUARY

- NOTICE OF POTENTIAL TERMINATION SENT TO EIGHT MAJOR RESPONSE CONTRACTORS.
- REPROGRAM CURRENTLY AVAILABLE FUNDS.
- START PROCESS TO FURLOUGH 1500 SUPERFUND PERSONNEL. MORALE AND PRODUCTIVITY OF ENTIRE EPA WORKFORCE AFFECTED.

END OF MARCH

- FULL TERMINATION OF TWO RESPONSE SUPPORT CONTRACTS AND PARTIAL TERMINATION OF TWO OTHER RESPONSE SUPPORT CONTRACTS (350 CONTRACTOR PERSONNEL LAID OFF).

APRIL

- EMERGENCY REMOVAL FUNDING DROPS TO $1 MILLION PER MONTH
  - DOWN FROM $5 MILLION PER MONTH IN FY 85
  - ONLY SUFFICIENT TO HANDLE 3 OR 4 MAJOR EMERGENCIES PER MONTH.
- ENFORCEMENT ACTIVITIES BEGIN TO SLOW DOWN
  - LITIGATION SUPPORT FOR ONGOING CASES CUT BY 50%
  - NO NEW CASE DEVELOPMENT.
- STOP INCREMENTAL FUNDING SO ONGOING PROJECTS BEGIN TO RUN OUT OF MONEY.

JUNE

- CAPABILITY TO CONDUCT LABORATORY ANALYSIS RUNS OUT.
- THREE REMEDIAL MANAGEMENT CONTRACTS AND THE LABORATORY MANAGEMENT CONTRACT TERMINATED.

JULY

- REMEDIAL PROGRAM SHUTS DOWN!
  - PROJECT MANAGEMENT FUNDING RUNS OUT
  - 200 FUNDED PROJECTS STOPPED BECAUSE NO MANAGEMENT OVERSIGHT.
- START PROCESS OF DISMISSING OR INDEFINITELY CONTINUING ENFORCEMENT CASES.

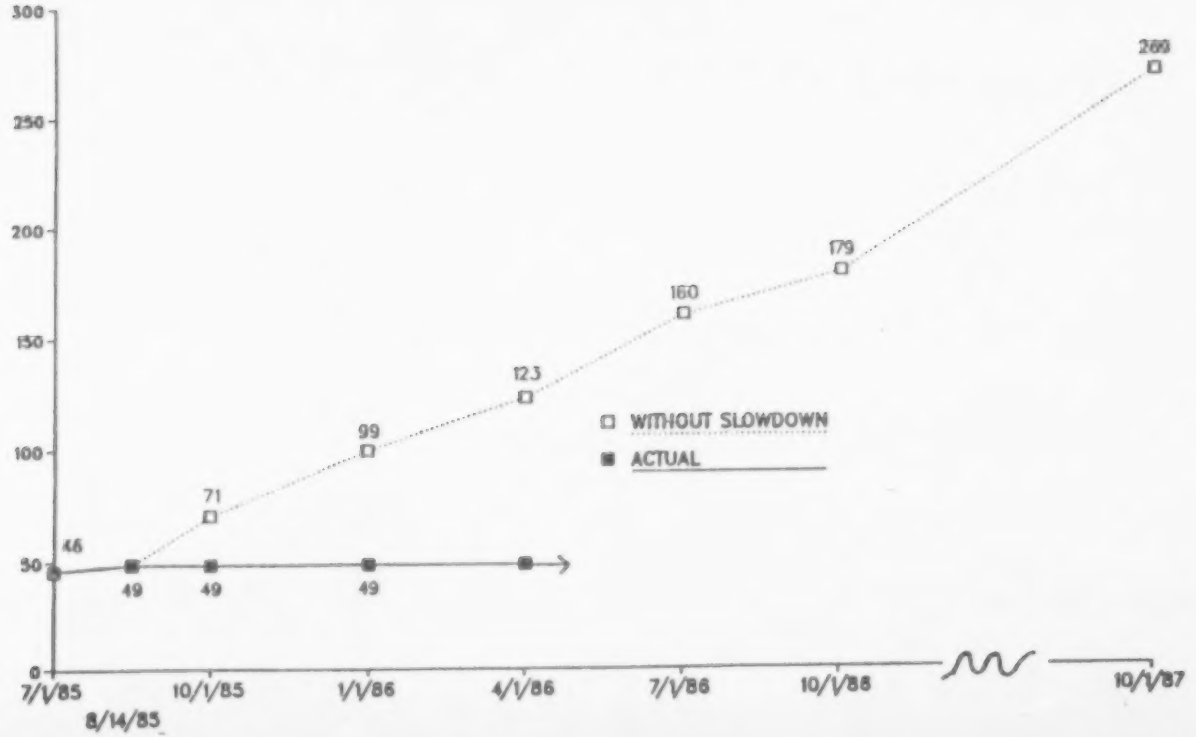
SEPTEMBER

- EMERGENCY REMOVAL FUNDING RUNS OUT.
- NO FURTHER ENFORCEMENT ACTIVITIES.
- FURLOUGHS MAY BEGIN.

1/30/86

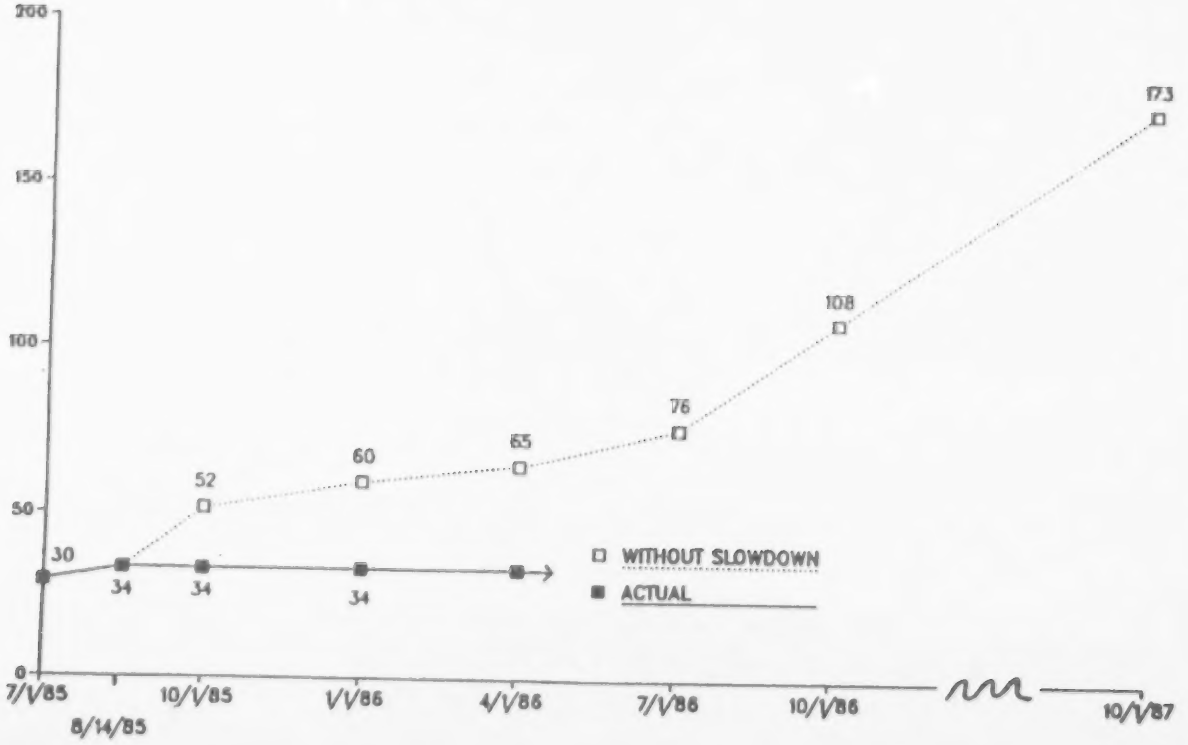
CUMULATIVE DESIGN STARTS

(FUND FINANCED)



CUMULATIVE CONSTRUCTION STARTS

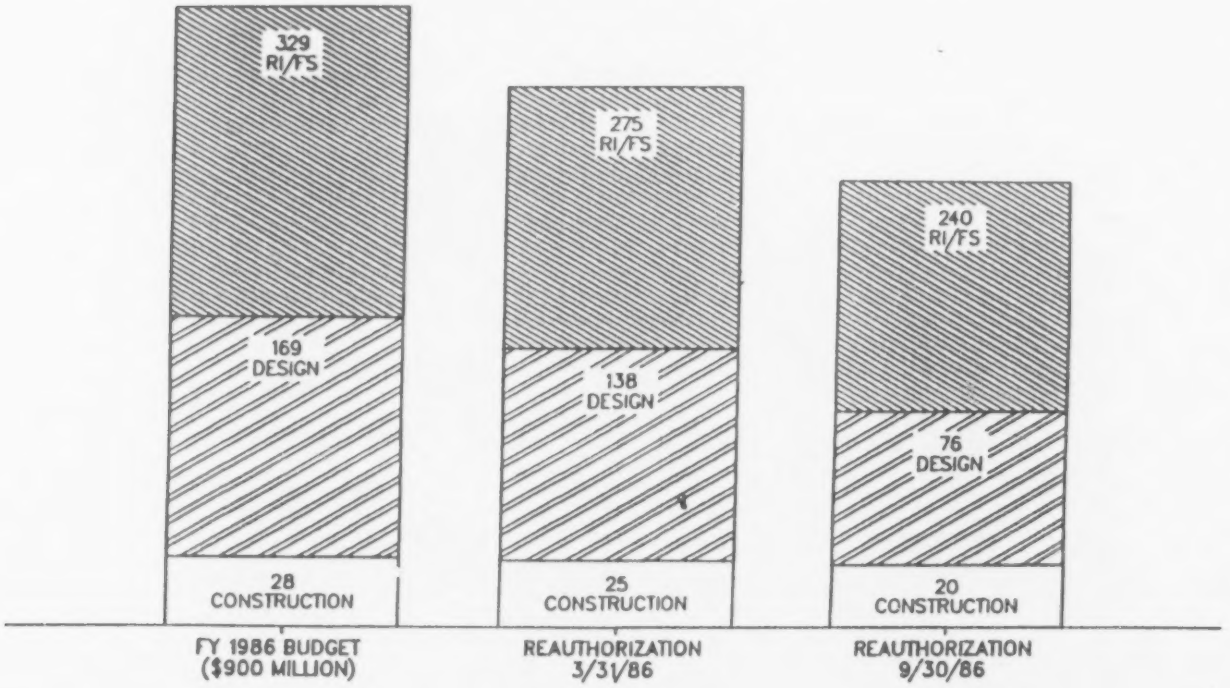
(FUND FINANCED)



THE SOONER WE GET REAUTHORIZATION, THE LESS THE IMPACT ON SITE COMPLETIONS

(CUMULATIVE COMPLETIONS AS OF SEPTEMBER 30, 1987)

(FUND FINANCED)



1/30/86

STATUS OF PROJECTS AS OF 4/1/86

ACTIVITY	ONGOING		ON HOLD
	ADMINISTRATION FY 86 BUDGET	ACTUAL	
FUND-FINANCED RI/FS	413	322	91
FUND-FINANCED RD	89	15	74
FUND-FINANCED RA	49	18	31